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Regulatory
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Fast Track Proposed Regulation Agency Background Document

Agency name	Board for Geology
Virginia Administrative Code (VAC) citation	18 VAC 70-20
Regulation title	Virginia Board for Geology Regulations
Action title	Amend the qualifications for individuals applying to sit for the Fundamentals of Geology (FG) exam and add the designation of Geologist-in-Training (GIT)
Date this document prepared	September 14, 2011

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

The proposed amendments to the regulation change the qualifications for applicants applying to sit for the FG exam by removing the work experience requirement and by allowing not only college graduates with baccalaureate or higher degrees, but also undergraduate college students within 12 months of completing undergraduate degree requirements, and graduate college students within 6 months of completing graduate degree requirements to apply to sit for the FG exam. The proposed language further amends the regulation to allow individuals who have passed the FG exam, completed the required geological science course work and obtained a baccalaureate or higher degree to apply for the designation of Geologist-in-Training (GIT).

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

(1) The language was adopted on July 21, 2011, by the (2) Board for Geology. The language will amend the (3) Board for Geology Regulations.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

§ 54.1-201.5 of the Code of Virginia (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-201>) states that the Board has the power and duty "To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board. The regulations shall not be in conflict with the purposes and intent of this chapter or of Chapters 1 (§ 54.1-100 et seq.) and 3 (§ 54.1-300 et seq.) of this title."

§ 54.1-1402 of the Code of Virginia (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+coh+54.1-1402+702176>) states, in part, that, "The Board shall establish regulations necessary for the reasonable administration of this chapter."

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

Currently, several colleges and universities, in other states, require students graduating with degrees in geology to take the FG exam as part of their degree program. The Board believes that allowing individuals to take the FG exam shortly after completion of course work rather than years after completion of course work may result in a higher pass rate. By allowing qualified college students and more recent college graduates to sit for the FG exam, and for college graduates who have passed the FG exam to earn the designation of GIT, the Board believes there will be an increase in the number individuals who pass the FG exam, and subsequently, meet all of the qualifications to become Certified Virginia Professional Geologists. Ensuring that geologists have at least the minimal competencies to perform geological work protects the health, safety and welfare of Virginia citizens.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The fast track process is being used because the proposed amendments are less restrictive than the current regulation, are expected to be non-controversial, and are consistent with other professions (e.g., professional engineers and architects). The proposed amendments do not diminish the qualifications that must be met to become a Virginia Certified Professional Geologist. Individuals seeking certification will be required to meet all education, examination and experience requirements as set forth in the Board's regulations.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

Substantive changes to existing sections include adding the definition of "Geologist-in-Training (GIT)" and an application fee for the GIT designation. New substantive provisions include adding qualifications for individuals to sit for the Fundamentals of Geology (FG) exam and adding qualifications for individuals to earn the GIT designation.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
 - 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
 - 3) other pertinent matters of interest to the regulated community, government officials, and the public.*
- If there are no disadvantages to the public or the Commonwealth, please indicate.*
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1) The advantages to the public are the less restrictive qualifications to sit for the FG exam and creation of the GIT designation while continuing to ensure that individuals seeking certification as a Virginia Certified Professional Geologist possess all qualifications and minimum competencies set by the Board's regulation.

2) The primary advantage to the Commonwealth is the continuance of a successful voluntary certification program with the potential for an increase in individuals seeking certification as professional geologists.

3) There are no disadvantages to the public or the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

The proposed amendments are not related to a federal requirement.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

No localities particularly affected have been identified.

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The new substantive provisions are less restrictive than current requirements. The absence of any increase in restrictions precludes any regulatory flexibility in this instance.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	(a) Fund Source: NGF (0900) (b) One-Time: The licensing system will need to be configured for the Geologist-in-Training designation at an estimated cost of \$3,600. No other
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	<p>one-time costs are expected as a result of this regulatory change.</p> <p>Ongoing: No ongoing costs are expected as a result of this regulatory change.</p>
Projected cost of the <i>new regulations or changes to existing regulations on localities.</i>	No change is anticipated.
Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations.</i>	The revised regulations apply to individuals wishing to sit for the Fundamentals of Geology exam.
Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	Approximately 60 applicants for the Geologist-in-Training designation are expected annually.
All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.	A one-time application fee of \$20 is expected to be charged to the Geologist-in-Training applicants. Resulting total revenue for the department is expected to be approximately \$1,200 annually.
Beneficial impact the regulation is designed to produce.	The regulation is designed to increase protection of the health, safety, and welfare of Virginia citizens. By removing the experience requirement, both the number of individuals who pass the FG exam and the number of individuals who subsequently seek voluntary certification as professional geologists are expected to increase. The voluntary professional geologist certification ensures that individuals possess at least the minimal competencies to perform geological work.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

The proposed amendments are alternatives to current regulations. No less costly alternatives or adverse affects to individuals or small businesses have been identified.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

No family impact has been identified.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact in each section. Please describe the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all provisions of the new regulation or changes to existing regulations between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
18 VAC 70-20-10		There is no current definition for Geologist-in-Training (GIT)	The change adds the definition of Geologist-in-Training (GIT): "Geologist-in-Training (GIT) means an individual who has completed the academic requirements specified in this chapter and has passed the Fundamentals of Geology examination, but has not met all requirements to qualify as a Virginia Certified Professional Geologist."
18 VAC 70-20-30		There is no current Geologist-in-Training (GIT) designation or GIT application fee.	The change adds an application fee for the GIT designation. Pursuant to § 54.1-201 of the <i>Code of Virginia</i> , the fee shall cover expenses for administration of the GIT designation.
	18 VAC 70-20-93		The change allows the Board to approve applicants to sit for the FG exam when the applicant has met the education requirements cited in the new section, but not the experience requirements cited in 18 VAC 70-20-80. Current regulations require an individual with an undergraduate degree in geology or a geological science to have at

			<p>least five years of actual geological work experience before applying for certification as a professional geologist. In addition to the education and experience requirements, to obtain certification, an individual must pass both the Fundamentals of Geology (FG) and Practice of Geology (PG) examinations. Allowing individuals to take the FG exam closer to completion of course work rather than years later should result in a higher pass rate and potentially an increase in the number of certified professional geologists in the Commonwealth. Additionally, the change is consistent with other professions. Individuals seeking licensure as architects and professional engineers are allowed to sit for qualifying examinations prior to completing the experience requirements contained in the profession's regulations.</p>
	18 VAC 70-20-95		<p>The change allows an individual to apply for the designation of Geologist-in-Training (GIT) after the individual has passed the FG exam and earned a baccalaureate or higher degree with a major in geology, engineering geology, geological engineering or a related geological science, or earned a baccalaureate or higher degree with a major other than those specified above and completed 30 semester hours of geological courses (12 of the 30 semester hours must have been completed in four of the seven areas listed in 18 VAC 70-20-80.A.5). An individual who earns the designation of GIT may not practice as a certified professional geologist in the Commonwealth until his competence has been attested by the board through certification. The change is consistent with other professions (e.g., the Engineer-in-Training designation for engineers).</p>